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PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/048,033	
	Filing Date	November 27, 2002	
	First Named Inventor	H. Michael SHEPARD	
	Art Unit	1615	
	Examiner Name	Not Yet Assigned	
Total Number of Pages in This Submission	25	Attorney Docket Number	NB 2006.01

ENCLOSURES (check all that apply)				
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Form PTO/SB/08a (5 pages), Form PTO/SB/08b (15 pages), 249 references, postcard receipt		
<table border="1"><tr><td>Remarks</td><td></td></tr></table>			Remarks	
Remarks				

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Antoinette F. Konski Bingham McCutchen LLP
Signature	
Date	January 11, 2005

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Mary R. Zimmerman		
Signature		Date	January 11, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT
Docket No. NB 2006.01

CERTIFICATE OF MAILING

I hereby certify that this paper or fee is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date listed below.

Dated: January 11, 2005

Mary K. Zimmerman
Mary K. Zimmerman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

H. Michael SHEPARD

Serial No.: 10/048,033

Filing Date: November 27, 2002

For: METHODS FOR TREATING
THERAPY-RESISTANT TUMORS

Examiner: Not Yet Assigned

Group Art Unit: 1615

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified on the attached forms PTO/SB/08a and PTO/SB/08b are being brought to the attention of the Examiner for consideration in connection with the examination of the above-identified patent application. The Examiner is requested to make these documents of record. Copies of the documents are being attached hereto. The Examiner is requested to make these documents of record.

I. Timing of the Information Disclosure Statement:

This Information Disclosure Statement is filed:

- ☐ With the new patent application submitted herewith (37 C.F.R. § 1.97(a)).
- ☒ Within three months after the filing date of the application or within three months after the date of entry of the national stage of a PCT application as set forth in 37 C.F.R. § 1.491.
- ☐ Before the mailing date of a first Office action on the merits. In the event, however, that an Office Action has crossed in the mail with this Information

Disclosure Statement, the Commissioner is hereby authorized to charge Deposit Account No. 50-2518 for any fees required pursuant to 37 C.F.R. §§ 1.17(p) or 1.17(i)(1).

This Information Disclosure Statement is filed:

- ☐ After the first Office Action and more than three months after the application's filing date; or PCT national stage date of entry filing but, as far as is known to the undersigned, prior to the mailing date of either a final rejection or a notice of allowance, whichever occurs first, and the Commissioner is hereby authorized to charge Deposit Account No.[50-2518] for the fee (\$180) set forth in 37 C.F.R. § 1.17(p) and any additional required fees.

This Information Disclosure Statement is filed:

- ☐ After the mailing date of either a final rejection or a notice of allowance, whichever occurred first, and is accompanied by the fee (\$180.00) set forth in 37 C.F.R. § 1.17(i)(1) and a certification as specified in 37 C.F.R. § 1.97(e), as checked below. This document is to be considered as a petition requesting consideration of the Information Disclosure Statement.

The undersigned certifies that:

- ☐ Each item of information contained in the Information Disclosure Statement was first cited in any communication mailed from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this information disclosure statement.
- ☐ No item of information contained in this information disclosure statement was cited in a communication mailed from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

II. Copies of the Cited Items:

- ☒ Copies of all of the items listed on the attached forms PTO/SB/08a and PTO/SB/08b are enclosed.
- ☐ Copies of only the following items listed on the attached forms PTO/SB/08a and PTO/SB/08b are enclosed:
- ☐ Copies of all other items not listed above and listed in the attached forms PTO/SB/08a and PTO/SB/08b are not supplied because they were previously cited by or submitted to the Patent Office in a prior Application No. *, filed * and relied upon in this application for an earlier filing date under 35 U.S.C. § 120. See 37 C.F.R. § 1.98(d).

- ☐ Copies of those items which are marked with an asterisk (**) in the attached Form PTO-1499 were cited in a foreign examination report in a related case. A copy of the search report and the cited references not already of record in this application are attached hereto.

III. Concise Explanation of Relevance:

- ☒ A concise explanation of relevance of the items listed on forms PTO/SB/08a and PTO/SB/08b is not given.
- ☐ A concise explanation of relevance of [some of] the items listed on forms PTO/SB/08a and PTO/SB/08b is in the form of an English language copy of a Search Report from a foreign patent office, issued in a counterpart application, which refers to the relevant portions of the references (copy attached).

IV. Related Applications:

- ☐ Applicants bring to the Office's attention the following related, co-pending application(s):

V. Conclusion:

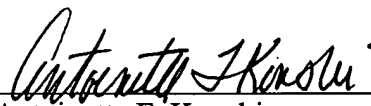
Citation of the above documents shall not be construed as:

1. an admission that the documents are necessarily prior art with respect to the instant invention;
2. a representation that a search has been made, other than as described above; or
3. an admission that the information cited herein is, or is considered to be, material to patentability as defined in § 1.56(b).

It is respectfully requested that the Examiner indicate consideration of the cited references by returning a copy of the attached forms PTO/SB/08a and PTO/SB/08b with initials or other appropriate marks. The Commissioner is hereby authorized to charge Deposit Account No. 50-2518, billing reference number: 7008282002 for any additional fees required in connection with the filing of this Information Disclosure Statement.

Respectfully submitted,

Dated: January 11, 2005

By: 
Antoinette F. Konski
Registration No. 34,202

Bingham McCutchen LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111-4067
Telephone: (650) 849-4950
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Substitute for form 1449A-PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 5

Complete if Known

Application Number	10/048,033
Filing Date	November 27, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number Number – Kind Code ² (if known)	Publication Date MM-DD-YY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear

FOREIGN PATENT DOCUMENTS

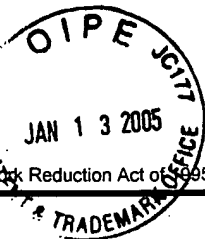
Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ – Number ⁴ – Kind Code ⁵ (if known)	Publication Date MM-DD-YY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
	1	DE 32 29 169 A1	02-09-84	De Clercq et al.		
	2	EP 0 311 107 A2	04-12-89	Stichting REGA VZW		
	3	EP 0 311 108 A2	04-12-89	Stichting REGA VZW		
	4	EP 0 316 592	05-24-89	Stichting REGA VZW		
	5	GB 982 776	02-10-65	The Wellcome Foundation		
	6	RO 88451	01-30-86	Antibiotics Enterprise, Iasi		X
	7	WO 89/05817	06-29-89	Nucleic Acid Research Institute		
	8	WO 90/03978	04-19-90	Stichting REGA VZW		
	9	WO 91/17424	11-14-91	Vical, Inc.		
	10	WO 92/19767	11-12-92	Terrapin Technologies, Inc.		
	11	WO 93/06120	04-01-93	University of Rochester		

Examiner's
SignatureDate
Considered

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Sheet 2 of 5

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Application Number	10/048,033
Filing Date	November 27, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

U.S. PATENT DOCUMENTS

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FOREIGN PATENT DOCUMENTS

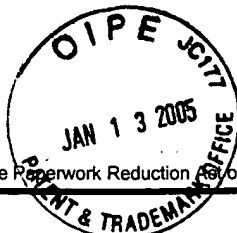
Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ – Number ⁴ – Kind Code ⁵ (if known)	Publication Date MM-DD-YY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
	12	WO 94/03467	02-17-94	Institute of Organic Chemistry & Biochemistry of the Academy of Sciences of the Czech Republic, et al.		
	13	WO 94/22483	10-13-94	Kozak, Alexander		
	14	WO 95/01806	01-19-95	Kondratyev, A.		
	15	WO 95/08556	03-30-95	Amersham International, Inc.		
	16	WO 95/12678	05-11-95	Connors, T. et al.		
	17	WO 96/03151	02-08-96	Springer et al.		
	18	WO 96/07413	04-04-96	University of Georgia Research Foundation & Yale University		

Examiner's
SignatureDate
Considered

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Sheet 3 of 5

Complete if Known

Application Number	10/048,033
Filing Date	November 27, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
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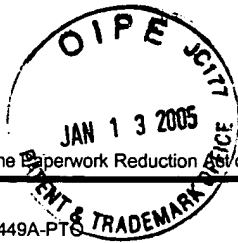
FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ – Number ⁴ – Kind Code ⁵ (if known)	Publication Date MM-DD-YY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
	19	WO 96/10030	04-04-96	Isis Pharmaceuticals, Inc.		
	20	WO 96/29336	09-26-96	Medical Research Council, University College Cardiff Consultants, Inc. Rega Foundation		
	21	WO 96/33168	10-24-96	Kumiai Chemical Industry Co Ltd et al.		
	22	WO 96/40088	12-19-96	Hostettler, Karl Y.		
	23	WO 96/40708	12-19-96	La Jolla Pharmaceuticals, Inc.		
	24	WO 96/40739	12-19-96	Terrapin Technologies, Inc.		
	25	WO 97/25342	07-17-97	Terrapin Technologies, Inc.		

Examiner's
SignatureDate
Considered

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Sheet 4 of 5

Complete if Known

Application Number	10/048,033
Filing Date	November 27, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

U.S. PATENT DOCUMENTS

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		Number – Kind Code ² (if known)			

FOREIGN PATENT DOCUMENTS

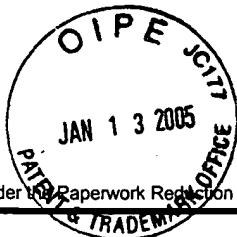
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ – Number ⁴ – Kind Code ⁵ (if known)				
	26	WO 97/28179	08-07-97	Fick, James & Israel, Mark		
	27	WO 97/49717	12-31-97	Balzarini et al.		
	28	WO 98/49177	11-05-98	University College Cardiff Consultants Limited		
	29	WO 99/06072	02-11-99	Boehringer Mannheim Corp.		
	30	WO 99/20741	04-29-99	Geron Corporation		
	31	WO 99/23104	05-14-99	The Government of the United States of America represented by The Secretary of Health & Human Services		

Examiner's
SignatureDate
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Sheet 5 of 5

Application Number	10/048,033
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	32	WO 99/37753	07-29-99	NewBiotics, Inc.		
	33	WO 00/18775	04-06-00	University College Cardiff Consultants Limited and Rega Foundation		
	34	WO 00/33888	06-15-00	Dubois, V. et al.		
	35	WO 01/07088	02-01-01	NewBiotics, Inc.		
	36	WO 01/83501	11-08-01	University College Cardiff Consultants Limited and Rega Foundation		
	37	WO 01/85749	11-15-01	University College Cardiff Consultants Limited and Rega Foundation		

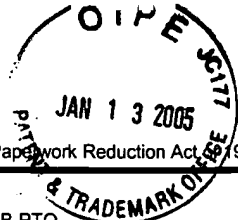
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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Sheet 1 of 15

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Application Number	10/048,033
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First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
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NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher city and/or country where published	T ²
	1	ABRAHAM et al. "Synthesis and biological activity of aromatic amino acid phosphoramidates of 5-fluoro-2'-deoxyuridine and 1-β-arabinofuranosylcytosine: Evidence of phosphoramidase activity" <i>J. Med. Chem.</i> (1996) 39 :4569-4575	
	2	AKDAS et al. "Glutathione S-transferase and multidrug-resistant phenotype in transitional cell carcinoma of the bladder" <i>Eur. Urol.</i> (1996) 29 (4):483-486	
	3	ALMASAN et al. "Genetic instability as a consequence of inappropriate entry into and progression through S-phase" <i>Cancer Metast. Rev.</i> (1995) 14 :59-73	
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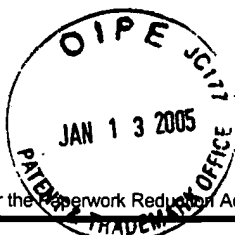
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Sheet 2 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher city and/or country where published	T ²
	14	BALZARINI et al. "Differential mechanism of cytostatic effect of (E)-5-(2-bromovinyl)-2'-deoxyuridine, 9-(1,3-dihydroxy-2-propoxymethyl)guanine, and other antiherpetic drugs on tumor cells transfected by the thymidine kinase gene of herpes simplex virus type 1 or type 2" <i>J. Biol. Chem.</i> (1993) 268(9) :6332-6337	
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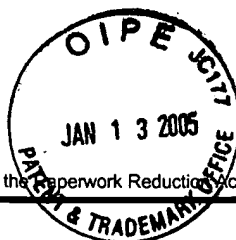
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Sheet 3 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

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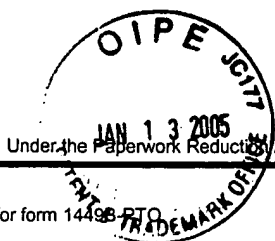
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Sheet 4 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

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	41	CHEN et al. "Sensitization of human breast cancer cells to cyclophosphamide and ifosfamide by transfer of a liver cytochrome P450 gene" <i>Cancer Res.</i> (Mar. 15, 1996) 56 :1331-1340	
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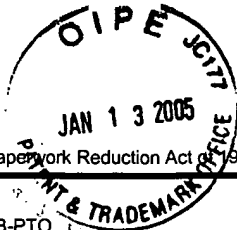
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Sheet 5 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	Not Yet Assigned
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

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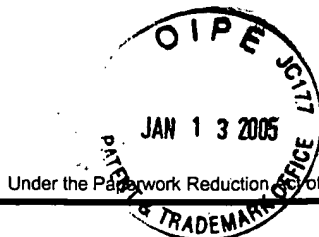
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Sheet 6 of 15

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Art Unit	1615
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	71	FINER-MOORE et al. "Refined structures of substrate-bound and phosphate-bound thymidylate synthase from <i>Lactobacillus casei</i> " <i>J. Mol. Biol.</i> (1993) 232:1101-1116	
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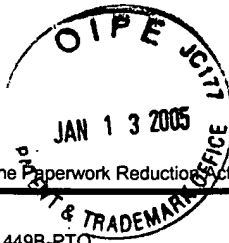
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Sheet 7 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

NON PATENT LITERATURE DOCUMENTS

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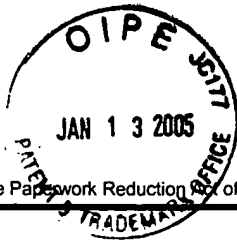
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Sheet 8 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

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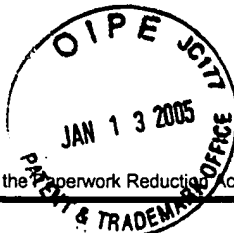
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Sheet 9 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
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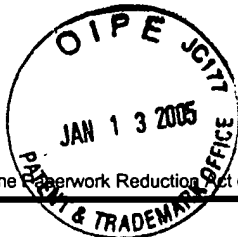
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Sheet

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Application Number

10/048,033

Filing Date

November 28, 2002

First Named Inventor

H. Michael SHEPARD

Art Unit

1615

Examiner Name

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	130	MASTERS and ALTARDI "The nucleotide sequence of the cDNA coding for the human dihydrofolate acid reductase" <i>Gene</i> (1983) 21:59-63	
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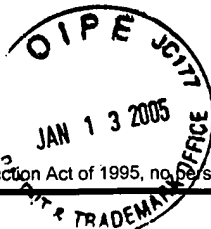
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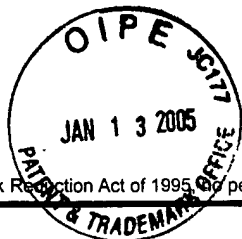
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Sheet 12 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

NON PATENT LITERATURE DOCUMENTS

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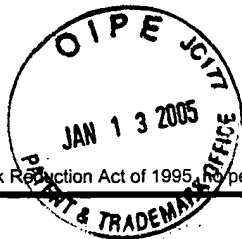
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Sheet 13 of 15

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Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

NON PATENT LITERATURE DOCUMENTS

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Sheet 14 of 15

Application Number	10/048,033
Filing Date	November 28, 2002
First Named Inventor	H. Michael SHEPARD
Art Unit	1615
Examiner Name	Not Yet Assigned
Attorney Docket Number	NB 2006.01

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10/048.033

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November 28, 2002

First Named Inventor

H. Michael SHEPARD

Art Unit

1615

Examiner Name

Not Yet Assigned

Attorney Docket Number

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